

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

BRIAN E. VODICKA,

Plaintiff,

vs.

**ROBERT L. ERMATINGER, JR., and
SCOTT ROBERT SAYERS,**

Defendants.

Civil Action No. 3:19-cv-0056-B

**NON-PARTY STEPHEN C. SCHOETTNER'S RESPONSE TO
PLAINTIFF VODICKA'S MOTION TO COMPEL COMPLIANCE**

Non-party Stephen C. Schoettner ("Schoettner") files this Response to Plaintiff Vodicka's Motion to Compel Compliance, seeking documents from Schoettner, to which Schoettner responds as follows:

1. Schoettner has complied with Rule 45 and Vodicka's request for the entry of an Order against Schoettner should be denied.

2. Nowhere in Vodicka's five (5) page Motion or in his four (4) Exhibits does Vodicka advise the Court that Schoettner served Vodicka with a written "Non-Party Schoettner's Response to Vodicka's Notice of Subpoena." Schoettner's Response was served a week after receiving the Subpoena. Schoettner's Response asserted objections based upon Vodicka's non-compliance with Rule 45. Subject to the objections, Schoettner responded to each of the six production requests: "Schoettner does not have in his possession, custody, or control the requested document, created by a third party circa February 2016."

3. Vodicka has deceived the Court by not acknowledging Schoettner's Response in his Motion To Compel Compliance. Schoettner attaches his previously served "Non-Party Schoettner's Response to Vodicka's Notice of Subpoena" as Exhibit A.

and received the Subpoena, I asked the process server if he knew Vodicka or Aubrey, and the process server said that his client was “weird.”

SUMMARY: Schoettmer has complied with the Federal Rules of Civil Procedure and has responded to the Subpoena. Schoettmer does not possess, have custody of, or control of any responsive document(s). There is nothing to compel.

Dated: August 6, 2021

Respectfully submitted,

By: /s/ Stephen C. Schoettmer

Stephen C. Schoettmer

State Bar No. 17800400

steve.schoettmer1@gmail.com

LAW OFFICE OF STEPHEN C. SCHOETTMER

4305 W. Lovers Lane

Dallas, Texas 75209

Telephone: (214) 228-8792

PRO SE

CERTIFICATE OF SERVICE

On August 6, 2021, a true and correct copy of this Response was served on all known counsel of record via email in accordance with the Federal Rules of Civil Procedure.

/s/ Stephen C. Schoettmer

EXHIBIT “A”

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Civil Action No. 3:19-CV-0056-b

Non-Party Schoettmer's Response to Vodicka's Notice of Subpoena

Stephen C. Schoettmer was served with a Notice of Subpoena on July 6, 2021. Schoettmer is not a party to the litigation. Schoettmer objects to the Subpoena for the following reasons, and subject to and without waiving his objections, Schoettmer responds.

1st Objection. The Subpoena does not comply with Rule 45(c)(2), commanding Schoettmer to deliver documents to Florida. Schoettmer resides, is employed, and transacts business in Dallas Texas.

2nd Objection. In 2016, Vodicka had equal access to the requested documents (two depositions transcripts and two deposition videos - of deponents Vodicka and Aubrey). Vodicka can contact the court reporter and the videographer to obtain their copies -- that is how the court reporter and the videographer makes a living. The request subjects Schoettmer to undue

burden.

3rd Objection. The two depositions were taken in February and March 2016. Nothing in the depositions pertain to the death and murder of Ira Tobolowsky (on May 13, 2016). The requested discovery does not reasonably lead to any relevant evidence. It subjects Schoettmer to undue burden.

4th Objection. Upon recollection as the interrogating attorney, Mr. Vodicka was incoherent during his deposition, he failed to provide responsive answers, at one point causing his mate, Steven Aubrey who was sitting with him, to respond something like, “that is the way he is now.” Mr. Aubrey had caused Mr. Vodicka to be committed for a psych evaluation a month or so prior to the deposition. The deposition was suspended as a result of Vodicka’s incoherence. Consequently, the requested discovery does not reasonably lead to any relevant evidence. It subjects Schoettmer to undue burden.

5th Objection. Upon information and belief, the discovery period in the above referenced federal lawsuit is closed.

Subject to Objections, Schoettmer’s response to Subpoena:

Vodicka’s Request #1. Schoettmer does not have in his possession, custody or control the responsive document, created by a third party circa Feb, 2016.

Vodicka’s Request #2. Schoettmer does not have in his possession, custody or control the responsive document, created by a third party circa Feb 2016.

Vodicka’s Request #3. Schoettmer does not have in his possession, custody or

control the responsive document, created by a third party, circa March 2016.

Vodicka's Request #4. Schoettmer does not have in his possession, custody or

control the responsive document, created by a third party, circa March 2016.

Respectfully Submitted,

/S/ _____

**Stephen C. Schoettmer
Law Office of Stephen C. Schoettmer, PLLC
4305 W. Lovers Lane
Dallas Texas 75209
State Bar. 17800400
214 228 8792**

Served on July 13, 2021.

/S/ _____